

# CRAVATH, SWAIN & MOORE LLP

WORLDWIDE PLAZA  
825 EIGHTH AVENUE  
NEW YORK, NY 10019-7475

TELEPHONE: (212) 474-1000  
FACSIMILE: (212) 474-3700

CITYPOINT  
ONE ROPEMAKER STREET  
LONDON EC2Y 9HR  
TELEPHONE: 44-20-7453-1000  
FACSIMILE: 44-20-7860-1150

WRITER'S DIRECT DIAL NUMBER

(212) 474-1480

STUART W. GOLD  
JOHN W. WHITE  
EVAN R. CHESLER  
MICHAEL L. SCHLER  
RICHARD LEVIN  
KRIS F. HEINZELMAN  
B. ROBBINS KIESSLING  
ROGER D. TURNER  
PHILIP A. GELSTON  
RORY O. MILLSON  
FRANCIS P. BARRON  
RICHARD W. CLARY  
WILLIAM P. ROGERS, JR.  
JAMES D. COOPER  
STEPHEN L. GORDON  
DANIEL L. MOSLEY  
PETER S. WILSON  
JAMES C. VARDELL, III  
ROBERT H. BARON  
KEVIN J. GREHAN  
C. ALLEN PARKER  
MARC S. ROSENBERG  
SUSAN WEBSTER  
DAVID MERCADO  
ROWAN D. WILSON

CHRISTINE A. VARNEY  
PETER T. BARBUR  
SANDRA C. GOLDSTEIN  
THOMAS G. RAFFERTY  
MICHAEL S. GOLDMAN  
RICHARD HALL  
JULIE A. NORTH  
ANDREW W. NEEDHAM  
STEPHEN L. BURNS  
KEITH R. HUMMEL  
DAVID J. KAPPOS  
DANIEL SLIFKIN  
ROBERT I. TOWNSEND, III  
WILLIAM J. WHELAN, III  
SCOTT A. BARSHAY  
PHILIP J. BOECKMAN  
ROGER G. BROOKS  
WILLIAM V. FOGG  
FAIZA J. SAEED  
RICHARD J. STARK  
THOMAS E. DUNN  
MARK I. GREENE  
DAVID R. MARRIOTT  
MICHAEL A. PASKIN  
ANDREW J. PITTS

MICHAEL T. REYNOLDS  
ANTONY L. RYAN  
GEORGE E. ZOBITZ  
GEORGE A. STEPHANAKIS  
DARIN P. MCATEE  
GARY A. BORNSTEIN  
TIMOTHY G. CAMERON  
KARIN A. DEMASI  
LIZABETHANN R. EISEN  
DAVID S. FINKELSTEIN  
DAVID GREENWALD  
RACHEL G. SKAISTIS  
PAUL H. ZUMBRO  
JOEL F. HEROLD  
ERIC W. HILFERS  
GEORGE F. SCHOEN  
ERIK R. TAVZEL  
CRAIG F. ARCELLA  
TEENA-ANN V. SANKOORIKAL  
ANDREW R. THOMPSON  
DAMIEN R. ZOUBEK  
LAUREN ANGELILLI  
TATIANA LAPUSHCHIK  
ERIC L. SCHIELE  
ALYSSA K. CAPLES  
JENNIFER S. CONWAY  
MINH VAN NGO  
KEVIN J. ORSINI  
MATTHEW MORREALE  
J. WESLEY EARNHARDT  
YONATAN EVEN  
BENJAMIN GRUENSTEIN  
JOSEPH D. ZAVAGLIA  
STEPHEN M. KESSING  
LAUREN A. MOSKOWITZ  
DAVID J. PERKINS  
JOHNNY G. SKUMPIJA  
J. LEONARD TETI, II  
SPECIAL COUNSEL  
SAMUEL C. BUTLER  
GEORGE J. GILLESPIE, III  
OF COUNSEL  
PAUL C. SAUNDERS

February 13, 2013

Appleton Papers Inc., et al. v. George A. Whiting Paper Co., et al., No. 08-cv-16

Dear Judge Griesbach:

I write on behalf of NCR Corporation ("NCR") in response to the Court's February 7, 2013 Order in the above-captioned action.

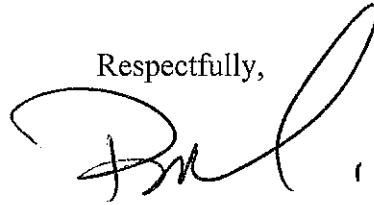
NCR agrees with the Court that the Court's anticipated ruling on the divisibility issue could have a direct impact on one or more of the decisions in the *Whiting* contribution action. NCR thus supports delaying final judgment in the *Whiting* action until after the Court enters a decision on the issues tried during the recent Enforcement Action trial.<sup>1</sup>

While NCR and other parties have a significant interest in final judgment being entered in *Whiting* as soon as possible, NCR believes that interest is outweighed by the need to allow the parties and the Court an opportunity to evaluate the Court's divisibility ruling (especially as that ruling is expected soon) and whether it undermines or materially changes any of the *Whiting* rulings.

<sup>1</sup> The Court might wish to consider whether its July 2012 arranger liability ruling (Dkt. #1405) is sufficiently separate and distinct that final judgment as to that ruling could be entered now, even if other aspects of *Whiting* should await the divisibility ruling. In a pending CERCLA action concerning the Kalamazoo River in Michigan, which also involves sales of carbonless copy paper broke, NCR argued that Georgia-Pacific had previously litigated its arranger liability claims against NCR in this Court. The Michigan court recently declined to give this Court's arranger ruling preclusive effect, in part because final judgment has not been entered in *Whiting*. A trial of Georgia-Pacific's arranger liability claims in the Kalamazoo case is scheduled to begin on February 19, 2013.

Of course, at this time, NCR does not know how the Court will rule in the Enforcement Action. NCR thus cannot predict the nature of the impact that the Enforcement Action divisibility ruling will have on *Whiting*. Once the Court enters the divisibility ruling, NCR would welcome the opportunity to brief the interplay between that ruling and the Court's prior rulings in *Whiting*.

Respectfully,

A handwritten signature in black ink, appearing to read 'D. McAtee', with a large, stylized loop at the end.

Darin P. McAtee

Hon. Judge William C. Griesbach  
United States District Court  
Eastern District of Wisconsin  
125 S. Jefferson St., Rm. 203  
Green Bay, WI 54301-4541

VIA CM/ECF

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